

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

TRAX INTERNATIONAL CORPORATION

Employer

and

**Cases 28-RC-157129
28-RC-157323**

**MACHINISTS LOCAL 2282, INTERNATIONAL
ASSOCIATION OF MACHINISTS AND
AEROSPACE WORKERS, AFL-CIO**

Petitioner

DECISION AND DIRECTION OF ELECTIONS

Machinists Local 2282, International Association of Machinists and Aerospace Workers, AFL-CIO (Petitioner) seeks in Case 28-RC-157129 to represent a unit of full-time Electronic Technicians I/II/III, Clerks,¹ and Engineering Technicians I/II/III/IV/V/VI employed by TRAX International Corporation (the Employer) in its Section 96-Telecommunications at Yuma Proving Ground, in Yuma, Arizona, where the Employer provides support services for the United States Department of Defense. The petitioned-for unit includes 7 employees, including 3 Electronic Technicians; 3 Engineering Technicians, one of whom serves as a work order clerk at a help desk; and a Secretary. The Petitioner stated at the hearing that it does not seek to include the one Lead Telecommunications Technician in the unit. The Employer maintains that the unit sought by Petitioner is not appropriate and that the only appropriate unit must also include all hourly employees employed by the Employer at Yuma Proving Ground. The unit sought by the Employer includes approximately 765 employees, including the one Lead Telecommunications Technician.

The Petitioner seeks in Case 28-RC-157323 to represent a unit of full-time Engineering Technicians I/II/III employed by the Employer in its Section 79-Ammunition Logistics at Yuma Proving Ground. The petitioned-for unit includes 15 Engineering Technicians, including 11 Engineering Technicians who work as drivers, 2 Engineering Technicians who are assigned to the Army's Ammunition Management Division (AMD), an Engineering Technician assigned to the salvage yard for Section 79, and an Engineering Technician who functions as a technical writer. The Petitioner does not seek to include the one Lead Engineering Technician in the unit. The Employer maintains that the unit sought by

¹ The record reflects that there are no "Clerks" assigned to Section 96-Telecommunications, though there is a Secretary assigned to that section. I have referred to that individual as a Secretary in this Decision and Direction of Elections.

Petitioner is not appropriate and that the only appropriate unit must also include all hourly employees employed by the Employer at Yuma Proving Ground, as referenced above.

A hearing officer of the National Labor Relations Board held a consolidated hearing in this matter, and the parties orally argued their respective positions prior to the close of the hearing.² As described below, based on the record and relevant Board cases, including the Board's decision in *Specialty Healthcare and Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), enfd. 727 F.3d 552 (6th Cir. 2013), I find that the petitioned-for units are appropriate. Specifically, in Case 28-RC-157129, I find that a unit limited to Electronic Technicians, Secretaries, and Engineering Technicians in Section 96 is appropriate, and I have decided to permit the Lead Telecommunications Technician to vote subject to challenge; and, in Case 28-RC-157323, I find that a unit limited to Engineering Technicians assigned to Section 79 is appropriate, and I have decided to permit the Lead Engineering Technician to vote subject to challenge.

Following the hearing in this matter, the Employer filed an RM petition seeking an election in a unit including all hourly employees by the Employer at Yuma Proving Ground. The Employer filed a motion to stay further processing of the instant petitions to avoid the potential for conflicting results. I have dismissed the Employer's RM petition in a separate dismissal letter and hereby deny the Employer's motion to stay further processing of the instant petitions.

Below, after providing an overview of the Employer's operations, I will describe the Board's community of interest standards and will apply those standards to each of the petitioned-for units. I will then set forth the details of the directed elections and the procedures for requesting review of this decision.

I. The Employer's Operations

The Employer provides support services for the Department of Defense at Yuma Proving Ground, a United States Army facility located about 30 miles northeast of Yuma, Arizona. These support services include electronic instrumentation operation, optical and geodetic instrumentation operation, metrology and simulation operation, computation and automation, operations and maintenance, range management operations, technical and engineering special services, range communication operations, information management operations, and data management and test coordination.

The Employer's contract to provide services to the Department of Defense incorporates a Performance Work Statement (PWS) describing each distinct area of performance under the contract, including minimum performance standards and the scope of work to be performed by each subcategory within the functional areas of performance. In structuring its organization, the Employer relied on the PWS. The Employer has organized its operations into departments, which are comprised of groups, and, within those groups, sections. The Employer's departments include instrumentation services, field services, test services, test vehicle operations, business, and safety and quality. Each department has an

² The Hearing Officer's rulings made at the hearing are free from prejudicial error and are affirmed.

assigned manager. The Employer's program manager oversees all of the Employer's operations at Yuma Proving Ground. The Employer's sections correspond with subcategories of work defined in the PWS.

The employees in the petitioned-for unit in Case 28-RC-157129 belong to Section 96-Telecommunications, within the Communications group in the Field Services department. They are responsible for installing, maintaining, and performing operator services for telecommunications equipment throughout Yuma Proving Ground.

The employees in the petitioned-for unit in Case 28-RC-157323 belong to Section 79-Ammunition Logistics, within the Ammunition group in the Test Services department. They are responsible for receiving ammunition from third parties, transporting that ammunition to specified locations at Yuma Proving Ground, and ensuring that ammunition is accounted for in the appropriate data base. Additionally, Section 79 includes an employee tasked with breaking down and baling ammunition packaging materials and an employee responsible for writing standard operating procedures (SOPs) for the Ammunition group and occasionally for other sections.

II. Board Community of Interest Standards

The Act does not require a petitioner to seek representation of employees in the most appropriate unit possible, but only in *an* appropriate unit. *Overnite Transportation Co.*, 322 NLRB 723 (1996). Thus, the Board first determines whether the unit proposed by a petitioner is appropriate. When the Board determines that the unit sought by a petitioner is readily identifiable and that employees in that unit share a community of interest, the Board will find the petitioned-for unit to be an appropriate unit, despite a contention that the unit employees could be placed in a larger unit which would also be appropriate or even more appropriate, unless the party so contending demonstrates that employees in the larger unit share an "overwhelming community of interest" with those in the petitioned-for unit. *Specialty Healthcare*, supra, slip op. at 7.

Thus, the first inquiry is whether the job classifications sought by a petitioner comprise a readily identifiable group and share a community of interest. In this regard, the Board has made clear that it will not approve fractured units; that is combinations of employees that have no rational basis. *Odwalla, Inc.*, 357 NLRB No. 132 (2011), *Seaboard Marine*, 327 NLRB 556 (1999). An important consideration is determining whether a group is readily identifiable and shares a community of interest is whether the group is organized into a separate department or administrative grouping. Thus, in *The Neiman Marcus Group, Inc., d/b/a Bergdorf Goodman*, 361 NLRB No. 11 (2014), the Board, applying *Specialty Healthcare*, supra, found that the petitioned-for unit of women's sales associates in two separate departments of a retail store, did not share a sufficient community of interest and was not a readily identifiable group given the lack of any relationship between the proposed unit and any of the administrative or operational lines drawn by the Employer (such as departments, job classifications, or supervision). *Id.* at slip op. at 5.

Other relevant considerations include whether the employees in a petitioned-for unit have distinct skills and training; have distinct job functions and perform distinct work,

including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; have interchange with other employees; have distinct terms and conditions of employment; and are separately supervised. *United Operations, Inc.*, 338 NLRB 123 (2002); see also *Specialty Healthcare*, supra, at 9. Particularly important in considering whether the unit sought is appropriate are the organization of the plant and the utilization of skills. *Gustave Fisher, Inc.*, 256 NLRB 1069, fn. 5 (1981). However, all relevant factors must be weighed in determining community of interest.

With regard to the second inquiry, additional employees share an overwhelming community of interest with the petitioned-for employees only when there "is no legitimate basis upon which to exclude (the) employees from" the larger unit because the traditional community-of-interest factors "overlap almost completely." *Specialty Healthcare*, supra, at 11-13, and fn. 28 (quoting *Blue Man Vegas, LLC. v. NLRB*, 529 F.3d 417, 421-422 (D.C. Cir. 2008)). Moreover, the burden of demonstrating the existence of an overwhelming community of interest is on the party asserting it. *Northrop Grumman Shipbuilding, Inc.*, 357 NLRB No. 163, slip. op. at 3, fn. 8 (2011).

The Employer argues that I should not apply the framework set forth in *Specialty Healthcare*, supra, and instead should presume that a contract-wide unit is appropriate. The Employer argues that a contract-wide unit should be deemed presumptively appropriate based on the same kind of public policy considerations that led the Board to presume that system-wide units are optimal in the public utility industry. See *Baltimore Gas & Electric Co.*, 206 NLRB 199 (1973); *Colorado Interstate Gas Co.*, 202 NLRB 847 (1973); *Deposit Telephone Co.*, 328 NLRB 1029 (1999). The Board presumes system-wide public utility units are appropriate because the public has an "immediate and direct interest in the uninterrupted maintenance of the essential services that the public utility industry alone can adequately provide." *Baltimore Gas & Electric Co.*, 206 NLRB at 201.

I acknowledge that the Board held in *Specialty Healthcare*, supra, that its decision was not intended to disturb the various presumptions and rules the Board has developed for specific industries aside from the particular industry involved in that case. *Id.* at fn. 29. However, the Board has not developed a contract-wide presumption for defense service contractors, and I am not convinced that such a presumption is appropriate in this case, particularly given the broad array of services the Employer provides. Further, I find that evidence that there are contract-wide units in the defense service industry in some other locations and that Petitioner previously attempted to organize the Employer's employees on a contract-wide basis is insufficient to establish an industry practice or presumption.

The Employer also argues that the petitioned-for unit should be found inappropriate under Section 9(c)(5) of the Act, which provides that "[i]n determining whether a unit is appropriate...the extent to which the employees have organized shall not be controlling." The Employer argues that the fact that Petitioner sought to represent a contract-wide unit eight years ago establishes that the petitioned-for unit is premised solely on the extent of organization. I find that argument unpersuasive. The Board has held that prior unit stipulations are not controlling when considering the appropriateness of a petitioned-for unit. *Fraser Engineering Company, Inc.*, 359 NLRB No. 80, slip op. at 2 (2013). Rather, the

extent of organizing is but one of many factors to consider in determining whether a petitioned-for unit is appropriate. *Id.* As explained below, I find that the petitioned-for units are appropriate based on an application of the framework set forth in *Specialty Healthcare*, *supra*.

III. Case 28-RC-157129: Section 96-Telecommunications

Below, I will first explain my finding that the petitioned-for unit in Case 28-RC-157129 is readily identifiable and consists of employees who share a community of interest. I will then explain my finding that the Employer has not met its burden of establishing that the employees it seeks to include in the unit share an overwhelming community of interest with the employees in the petitioned-for unit.

A. The Employees in the Petitioned-for Unit Share a Community of Interest

In concluding that the employees in the petitioned-for unit are “readily identifiable as a group,” I note that they belong to same section and, thus, belong to the same department or administrative unit. The employees belong to Section 96-Telecommunications, one of two sections within the Communications group, which is comprised of Section 97-Range Communications in addition to Section 96-Telecommunications. The Communications group belongs to the Field Services department.

Further, the petitioned-for unit is readily identifiable in that the employees belonging to Section 96 perform a unique function and have significant functional integration. They are the only employees responsible for installing, maintaining, and performing operator services for telecommunications equipment inside the various buildings at Yuma Proving Ground. Although the employees belonging to Section 97-Range Communications also lay cables and/or fiber optics, they largely do exterior wiring work for data networks.

As explained above, the petitioned-for unit includes 7 employees, including 3 Electronic Technicians; 3 Engineering Technicians, one of whom serves as a work order clerk at a help desk; and a Secretary, who serves as an operator for Yuma Proving Ground.

The Electronic Technicians are largely responsible for installing and maintaining telecommunications equipment inside buildings at Yuma Proving Ground. The only work they typically do outside buildings consists of maintaining various 6 foot by 6 foot communication nodes or sheds that are located throughout the post where common communication lines are patched into various facilities. They receive work orders from the Engineering Technician who serves as a work order clerk at the help desk and then go to the various buildings throughout Yuma Proving Ground to complete the work orders. The Electronic Technicians report to Building S5 but spend 80 to 90 percent of their work day out of in the field completing the assigned work orders. If there is a reduction in work, the Electronic Technicians work out of Building S5, performing maintenance activities on the equipment located in Building S5.

Two of the Electronic Technicians in Section 96 are generally assigned to specific projects and occasionally will work with Electronic Technicians from Section 97 such projects. For example, when assigned to retrofit entire buildings, the Electronics Technicians in Section 96 sometimes perform their inside wiring work while employees belonging to Section 97 lay cable and/or fiber optics outside. The one other Electronics Technician in Section 96, who is referred to as an “ad hoc” Electronic Technician, works primarily on discrete tasks and rarely works with employees outside of the petitioned for unit. In performing their work, the Electronic Technicians use tools and equipment that include basic electric tools such as wire cutters, volt meters, and punch down tools.

Two of the Engineering Technicians in Section 96 work and maintain the Nortel SL100 Switch (PBX Switch), the central piece of equipment that manages all of the telephone lines for Yuma Proving Ground. They do not have to have specialized training or certification but typically have previous experience operating an SL100 switch. They must also learn programming language on the job. They perform all of their work from Building S5, but, one or two times per week, they coordinate with Electronic Technicians in Section 96 by ensuring they have established a dial tone on telecommunications equipment they are installing or maintaining in the field. Although Engineering Technicians do not generally substitute for Electronic Technicians, with a minimum of training, they could. The two Engineering Technicians who work and maintain the SL100 switch do not use tools with the exception of using a screwdriver on rare occasions.

The third Engineering Technician in Section 96 serves as a work order clerk at a help desk. This Engineering Technician receives incoming work orders from either the Lead Telecommunications Technician or from people calling in for service from throughout Yuma Proving Ground. The Engineering Technician assigns the Electronics Technicians in Section 96 to complete the work orders. The Engineering Technician does not assign work orders to employees in any other section. Once they complete the work specified in their work orders, the Electronics Technicians turn in their completed work orders to the Engineering Technician, who enters the completed work order in a database. The Engineering Technician does not use any tools in performing this work, and works exclusively at Building S5, and not in the field.

Finally, the Secretary essentially serves as the operator for Yuma Proving Ground, answering calls and rerouting them to the appropriate office. Although the Secretary is the only employee who performs operator duties as a primary function, Engineering Technicians from Section 96 perform her work when she is absent for any reason. The Secretary also maintains government forms used at Yuma Proving Ground, which involves stocking the forms and providing them to people from throughout Yuma Proving Ground when they request the forms and come to Building S5 to pick them up. The Secretary works exclusively in Building S5 and never performs work in the field. The Secretary position requires only a high school diploma and does not require any electronics or engineering experience.

All of the employees in Section 96 report to Building S5. With the exception of the Electronic Technicians, who mostly work in the field, they perform all of their work at Building S5. The only individuals who work out of Building S5, other than employees belonging to Section 96, are members of the Yuma Proving Ground police force, who do not

appear to be employed by the Employer or to have any functional integration, interchange, or contact with the employees in the petitioned-for unit.

Based on the employees' designation as belonging to a distinct section, their unique function, and their reporting to work in the same location, I find that they are a readily identifiable group. *Macy's Inc.*, 361 NLRB No. 4 (2014).

Moreover, I find that the petitioned-for employees share a community of interest with each other under the Board's traditional criteria. As explained above, the employees belong to the same section. Their work has a shared purpose and is functionally integrated, in that they, and only they, are responsible for the installing, maintaining, and performing operator services for telecommunications equipment at Yuma Proving Ground. The Electronic Technicians and Engineering Technicians regularly have contact with each other in performing their work, and Engineering Technicians sometimes temporarily interchange with the Secretary by performing operator duties when the Secretary is absent.

The record also establishes that the employees in the petitioned-for unit share similar terms and conditions of employment. Hourly wage rates for the Electronic Technician position range \$15.50 to \$29.00; hourly wage rates for the Engineering Technician position range from \$15.00 to \$36.00; and hourly wage rates for the Secretary position range from \$14 to a maximum of \$21.00. The employees also share the same fringe benefits. I acknowledge that Electronic Technicians have more overtime opportunities than the Engineering Technicians and the Secretary, but I find that, overall, the employees in the petitioned-for unit largely share the same terms and conditions of employment.

Accordingly, I conclude that the employees in the petitioned-for unit share a community of interest and that the petitioned-for unit is appropriate for the purposes of collective bargaining. *DTG Operations, Inc.*, 357 NLRB No. 175 (2011); *Northrop Grumman Shipbuilding, Inc.*, 357 NLRB No. 163 (2011).

B. The Employees the Employer Contends Must Be Added to the Unit Do Not Share an Overwhelming Community of Interest with the Employees in the Classifications Sought by Petitioner

Having found that the employees in Section 96 share a community of interest with each other, I turn to the issue of whether the Employer has met its burden of establishing that the employees it seeks to add to the unit share an overwhelming community of interest with the employees in the petitioned-for unit, such that they must be included. I find that the Employer has not met this burden. As discussed in more detail below, in reaching this conclusion, I find that the employees belonging to the Employer's numerous other sections belong to separate administrative units; largely have separate supervision; have distinct job duties, qualifications, and training; have certain distinct terms and conditions of employment; have limited and infrequent interchange with the petitioned-for employees; have limited contact, in comparison with the degree of contact among the employees in the petitioned-for unit; and have limited functional integration, in comparison with the degree of integration among the employees in the petitioned-for unit.

1. The Employees the Employer Would Add Are In a Separate Department or Administrative Unit from the Employees Sought by Petitioner

As explained above, the employees in the petitioned-for unit all belong to the same section, the smallest administrative unit established by the Employer in its organizational structure. No one, other than those in the petitioned-for unit and the Lead Telecommunications Technician, belongs to Section 96, and none of the employees in the petitioned-for unit belongs to any section other than Section 96. Although the employees in the petitioned-for unit belong to the same group as the employees in Section 97, the Employer has chosen to separate the employees organizationally into two different sections.

2. The Employees the Employer Would Add Largely Have Separate Supervision from the Employees Sought by Petitioner

The employees the Employer would add largely have separate supervision from the employees sought by the Petitioner. All of the Employer's employees at Yuma Proving Ground ultimately report to the Program Manager. The employees within the Field Services department all report to the manager of the Field Services department. However, the record does not establish that the manager of the Field Services department exercises a significant degree of oversight over Section 96. I acknowledge that the employees in the petitioned-for unit share the same Lead Telecommunications Technician with the employees in Section 97, and that both groups receive project assignments from the Lead Telecommunications Technician. However, it appears that the employees in Section 96 largely function as an independent group and that the Electronic Technicians in that section receive routine work assignments from the Engineering Technician who receives work orders at the help desk. Further, employees belonging to departments other than the Field Services department report to different managers, and employees in sections other than Sections 96 and 97 do not report to or receive assignments or direction from the Lead Telecommunications Technician. Thus, I find that the employees the Employer would add largely have separate supervision from the employees sought by Petitioner.

3. The Employees the Employer Would Add Have Distinct and Unique Job Duties, Qualifications, and Training from the Employees Sought by Petitioner

As explained above, the petitioned-for employees perform the unique function of installing, maintaining, and performing operator services for telecommunications equipment throughout Yuma Proving Ground. None of the employees the Employer would add perform that function, and there is no evidence establishing that most of the employees the Employer add, with the possible exception of employees belonging to Section 97-Range Communications, possess the training necessary to perform that function. Rather, the record reflects that the employees the Employer would add perform a wide variety of functions, since the Employer provides a wide variety of services under its contract.

I acknowledge that employees belonging to Section 97-Range Communications share some functional similarity with the Electronic Technicians in the petitioned-for unit, in that they lay cable and/or fiber optics for data networking equipment and sometimes work together with the Electronics Technicians in Section 96 on projects such as building retrofits. However, the Electronic Technicians in Section 96 install and maintain telecommunications equipment inside buildings and, to a limited extent, work on the outside nodes, while the employees in Section 97 primarily lay cable and/or fiber optics for data networks outside buildings at Yuma Proving Ground. Further, while the Electronic Technicians in Section 96 receive their work orders from the Engineering Technician at the help desk and return the completed work orders to that individual, the employees in Section 97 have a separate system for receiving and recording information about their work orders using a spreadsheet. Thus, I find that the functions of the two groups are sufficiently distinct that they do not warrant a finding that the two groups share an overwhelming community of interest.

**4. The Employees the Employer Would Add Have
Some Distinct Terms and Conditions of Employment
from the Employees Sought by Petitioner**

The employees in the petitioned-for unit and the employees the Employer would add are covered by the same employee handbook and are therefore covered by a plethora of common work rules and policies. They also share a variety of common benefits, such as health benefits, paid leave, and life insurance. The wage ranges for the job classifications in the petitioned-for unit are not dissimilar from those for various classifications in other sections. However, unlike the employees the Employer would add, the employees in the petitioned-for unit report to work at the same building, Building S5, at the same time, 6:00 a.m. In addition, it appears that the employees in Section 96 are eligible for awards based on their section's work as a whole. Further, unlike the employees belonging to Section 97-Range Communications, who primarily work outside and can wear t-shirts due to the heat, the employees in the petitioned-for unit perform most or all of their work inside and are encouraged to wear collared shirts. Thus, I find that, although there are some common terms and conditions of employment, there are also cognizable and significant differences between the terms and conditions of employment of the employees in the petitioned-for unit and the employees the Employer would add.

**5. The Employees the Employer Would Add Do Not
Interchange With the Employees Sought by
Petitioner**

There is limited evidence of interchange between employees the Employer would add and those in the petitioned-for unit. In fact, there is no evidence of interchange between the employees in the petitioned-for unit and any employees other than those in Section 97-Range Communications. There is evidence that one employee transferred from Section 97 to the petitioned-for unit, and that one employee transferred from the petitioned-for unit to Section 97. Further, there is evidence that about 4 percent of total hours worked in Sections 96 and 97 on a quarterly basis consist of cross-utilization, meaning work being performed by employees in Section 96 by employees of Section 97, or vice versa. I find that this evidence of limited

interchange between employees in the petitioned-for unit and employees in Section 97 is not sufficient to compel a finding that the two groups or the entire unit proposed by the Employer share an overwhelming community of interest.

6. The Employees the Employer Would Add Have Relatively Limited Contact with the Employees the Employer Contends Must Be in the Unit

There is some evidence of contact between employees the Employer would add and those in the petitioned-for unit. I acknowledge that the employees in the petitioned-for unit have some contact with the employees the Employer would add. The Electronics Technicians may interact with employees in other sections when repairing their telecommunications equipment; the Engineering Technicians who receives work orders receives such orders from employees in various sections; and the Secretary receives requests for government forms and likely calls to the operator from employees in various sections. In addition, the Electronics Technicians in the petitioned-for unit interact from time to time with employees in Section 97 when the sections perform projects on the same buildings or when one section receives a work order that should appropriately be handled by the other. However, I find that the Employer has not presented evidence establishing that this contact is so frequent and regular that it compels a finding that the two groups share an overwhelming community of interest, particularly when compared with the regular contact among employees within the petitioned-for unit, as described above.

7. The Degree of Functional Integration Differs Significantly Between the Two Groups When Compared to the Functional Integration of the Unit of Employees Sought by Petitioner

There is only limited evidence of functional integration between the employees in the petitioned-for unit and those the Employer seeks to add. In fact, the only evidence of true functional integration is evidence that employees in Sections 96 and 97 sometimes work on common projects, where a building must be wired and the outside cable and/or fiber optics also needs to be laid. While employees in other sections or groups may depend on the Section 96 employees to have phone lines to conduct their work, nearly every workplace taken as a whole cannot function without its parts. This is not the question asked in analyzing functional integration. Rather, the question is whether each classification has a separate role in the process. *DTG Operations*, supra at 8. Thus, I find that the degree of functional integration between the employees in the petitioned-for unit and the employees the Employer seeks to add is limited in comparison with the degree of functional integration among the employees in the petitioned-for unit, who all play connected roles in the process installing, maintaining, and providing operator services for telecommunications equipment at Yuma Proving Ground.

8. Balancing of Community of Interest Factors

I acknowledge that the employees the Employer contends must be included in the unit and the employees in the petitioned-for unit share a limited degree of common supervision,

share some common terms and conditions of employment, have some degree of contact with each other, and have some degree of functional integration. While the Employer's contentions may establish that the broader unit sought by the Employer is an appropriate unit, balancing all of the factors described above, they are insufficient to establish that the employees the Employer would add share such an overwhelming community of interest as to require their inclusion in the unit. Because the Union did not seek the inclusion of the Lead Telecommunications Technician, but the issue of whether that individual is appropriately excluded as a statutory supervisor or for any other reason was not litigated at the hearing, I have decided to permit the Lead Telecommunications Technician to vote subject to challenge.

IV. Case 28-RC-157323: Section 79-Ammunition Logistics

Below, I will first explain my finding that the petitioned-for unit in Case 28-RC-157323 is readily identifiable and consists of employees who share a community of interest. I will then explain my finding that the Employer has not met its burden of establishing that the employees it seeks to include in the unit share an overwhelming community of interest with the employees in the petitioned-for unit.

A. The Employees in the Petitioned-for Unit Share a Community of Interest

The petitioned-for unit includes 15 Engineering Technicians, including 11 Engineering Technicians who work as drivers, 2 Engineering Technicians who are assigned to the AMD, an Engineering Technician assigned to the salvage yard for Section 79, and an Engineering Technician who prepares SOPs for the Ammunition group and occasionally for other sections.

In concluding that the employees in the petitioned-for unit are "readily identifiable as a group," I note that they belong to same section, Section 79-Ammunition Logistics, and thus belong to the same department or administrative unit. Section 79 is part of the Ammunition group, which consists of Section 79, together with the Conditioning Chambers section and Section 77-Ammunition Recovery, which I have already determined to constitute a separate appropriate unit in Case 28-RC-155938. The Ammunition group belongs to the Testing Services department.

The employees in the petitioned-for unit are a readily identifiable group in that those employees largely share a unique function: they essentially perform an ammunition warehousing function. That is, they are the only employees responsible for receiving ammunition from third parties, delivering that ammunition to certain locations at Yuma Proving Ground, and ensuring that there is proper accountability for that ammunition by inputting the receiving information about the ammunition into the appropriate database. Additionally, the petitioned-for unit contains the one employee tasked with breaking down and baling ammunition packaging materials, and the one employee who writes the SOPs for the Ammunition group and, occasionally, for other sections.

The 11 Engineering Technicians who work as drivers receive notification about ammunition deliveries being made from third parties off post. They then obtain appropriate

vehicles and drive to specified meeting points, where they receive ammunition and related paperwork. They ensure the order matches the packing slip and then transmit information about the ammunition they received to the two Engineering Technicians who are assigned to the AMD. They then transport the ammunition to the appropriate location at Yuma Proving Ground. The Engineering Technicians who work as drivers are licensed to operate dump trucks, front end loaders, forklifts and semi-trailers. They possess Ammo 45 cards and have commercial driver's licenses (CDLs) and United States Department of Transportation Hazardous Materials (HAZMAT) certifications. Some of them also possess Ammo 62 cards.

The two Engineering Technicians who are assigned to the AMD receive information about ammunition from the Engineering Technicians who work as drivers. They enter information about the receipt of ammunition into a database called the Quality Assurance Specialist Ammunition Surveillance System (QASAS). All ammunition entering the post must be documented and accounted for in the QASAS system. The Engineering Technicians assigned to the AMD are considered to be embedded government employees, in that their pay comes from federal government overhead funds. They use computers in performing their work.

The Engineering Technician assigned to the salvage yard for Section 79 is tasked with disposing of the ammunition packaging materials. This employee is required to check the packaging materials to ensure that no explosives have inadvertently been left in the materials. If this employee discovers explosive material in the packaging, the employee must call an Unexploded Ordnance Technician to dispose of the explosives. Otherwise, the employee disposes of all packaging materials. The Engineering Technician assigned to the salvage yard does not have a CDL or HAZMAT certification, and there is no educational requirement for the employee's position.

One Engineering Technician in Section 79 is responsible for preparing SOPs for the Ammunition group and occasionally for other sections at Yuma Proving Ground. That Engineering Technician does not possess a CDL or HAZMAT certification.

Notably, there is no evidence that employees who do not belong to Section 79 receive and deliver ammunition, work in the AMD, work in the salvage yard for Section 79, or write SOPs for the Ammunition group. Based on the employees' designation as belonging to a distinct administrative unit and their unique functions, I find that they are a readily identifiable group. *Macy's Inc.*, 361 NLRB No. 4 (2014).

Moreover, I find that the petitioned-for employees share a community of interest with each other under the Board's traditional criteria. As explained above, all of the employees in the petitioned-for unit belong to the same administrative unit: Section 79-Ammunition Recovery.

For the most part, their work has a shared purpose and is functionally integrated, in that the Engineering Technicians who serve as drivers, those who are assigned to the AMD, and the Engineering Technician assigned to the salvage yard are all responsible for receipt and some delivery of ammunition, accounting for ammunition upon receipt, and disposing of ammunition packaging materials. Further, the Engineering Technician responsible for

preparing SOPs prepares SOPs for the employees in the petitioned-for unit. Although that Engineering Technician also prepares SOPs for other the other sections within the Ammunition group and sometimes also for other sections, I find the petitioned-for unit, including that Engineering Technician, to be a readily identifiable group and find that the group shares a community of interest, because the Employer has chosen to include that employee organizationally in Section 79, and the employee does not appear to share any greater community of interest with any other grouping of employees.

Moreover, all Engineering Technicians in the petitioned-for unit share the same Lead Engineering Technician and ultimately report to the manager of the Testing Services department, and, at the highest level, to the Program Manager. Further, although the record does not establish specifically what degree of interchange there is among employees in the petitioned-for unit, the record establishes that the employees regularly have contact with each other in performing their work. Specifically, the Engineering Technicians who serve as drivers regularly communicate with Engineering Technicians assigned to the AMD about the ammunition they have received. Finally, the employees in the petitioned-for unit all have the same wage scale, which ranges from \$15.00 to about \$24.00 per hour, and they share common fringe benefits.

Accordingly, I conclude that the employees in the petitioned-for unit share a community of interest and that the petitioned-for unit is appropriate for the purposes of collective bargaining. *DTG Operations, Inc.*, 357 NLRB No. 175 (2011); *Northrop Grumman Shipbuilding, Inc.*, 357 NLRB No. 163 (2011).

B. The Employees the Employer Contends Must Be Added to the Unit Do Not Share an Overwhelming Community of Interest with the Employees in the Classifications Sought by Petitioner

Having found that the employees in Section 79 share a community of interest with each other, I turn to the issue of whether the Employer has met its burden of establishing that the employees it seeks to add to the unit share an overwhelming community of interest with the employees in the petitioned-for unit, such that they must be included. I find that the Employer has not met this burden. As discussed in more detail below, in reaching this conclusion, I find that the employees belonging to the Employer's numerous other sections belong to separate administrative units; largely have separate supervision; have distinct job duties, qualifications, and training; have certain distinct terms and conditions of employment; have limited and infrequent interchange with the petitioned-for employees; have limited contact, in comparison with the degree of contact among the employees in the petitioned-for unit; and have limited functional integration, in comparison with the degree of integration among the employees in the petitioned-for unit.

1. The Employees the Employer Would Add Are In a Separate Department or Administrative Unit from the Employees Sought by Petitioner

As explained above, the petitioned-for engineering technicians are grouped separately into the Ammunition Logistics section within the Ammunition group. Although there are two other sections within the Ammunition group, there are no employees who belong to the Ammunition Logistics section aside from the employees in the petitioned-for unit, and none of the employees in the petitioned-for unit belongs to any other section. I therefore find that the petitioned-for employees belong to a separate administrative unit from the employees the Employer would add.

2. The Employees the Employer Would Add Largely Have Separate Supervision from the Employees Sought by Petitioner

The employees in the petitioned-for unit ultimately report to the manager of the Testing Services department, who is also serving as an interim supervisor for the Ammunition and Weapons groups, and, ultimately, report to the Program Manager. However, the degree of oversight the employees in the petitioned-for unit receive from these managers is not established in the record. The record establishes that on a day-to-day basis, the employees in the petitioned-for unit largely function independently and receive limited direction from a Lead Engineering Technician, who is classified as an Engineering Technician IV. The Lead Engineering Technician only serves as a lead for the Ammunition Logistics section and not for any other section within the Employer's operations. Further, employees belonging to groups other than the Ammunition and Weapons groups report to different managers. Thus, I find that the employees the employer would add largely have separate supervision from the employees sought by Petitioner.

3. The Employees the Employer Would Add Have Distinct and Unique Job Duties, Qualifications, and Training from the Employees Sought by Petitioner

As explained above, the petitioned-for employees perform the unique function of receiving and transporting ammunition, tracking information about ammunition in the QASAS system, disposing of the packaging materials, and preparing SOPs for the Ammunition group and other sections within the Employer's operations. The Engineering Technicians who serve as drivers have CDLs and Ammo 45 and Ammo 62 certifications, and, although various other employees at Yuma Proving Ground have CDLs and Ammo 45 certifications, there is insufficient evidence to show that most of those employees are trained to perform the specific functions performed by the employees in the petitioned-for unit, or that employees from any other sections regularly perform such functions. Rather, the record reflects that the employees the Employer would add perform a wide variety of functions, since the Employer provides a wide variety of services under its contract. I therefore find that the employees the Employer would add have distinct and unique job duties, qualifications, and training from the employees sought by Petitioner.

4. The Employees the Employer Would Add Have Some Distinct Terms and Conditions of Employment from the Employees Sought by Petitioner

The employees in the petitioned-for unit and the employees the Employer would add are covered by the same employee handbook and are therefore covered by a plethora of common work rules and policies. They also share a variety of common benefits, such as health benefits, paid leave, and life insurance. In addition, their wage range is the same as the wage range for employees in Engineering Technician positions in other sections at Yuma Proving Ground. However, the Engineering Technicians in Section 79-Ammunition Logistics do have some unique terms and conditions of employment. For example, the Engineering Technicians who serve as drivers receive hazard duty pay premium of 4 to 8 percent, depending on what type of ammunition they are transporting. In addition, those Engineering Technicians work 50 to 60 hours of overtime annually. The Engineering Technicians who serve as drivers and the Engineering Technician who is assigned to the salvage yard report to the same building, Building 3630. The Engineering Technicians who are assigned to the AMD work in the AMD building, and the Engineering Technician who prepares SOPs reports to Building 3700, where the employees assigned to Section 77-Ammunition Recovery report to work. Accordingly, I find that, while there are many similarities, there are also cognizable differences between the terms and conditions of employment of the employees the Employer would add and those of the employees in the petitioned-for unit.

**5. The Employees the Employer Would Add Have
Limited Interchange with the Employees Sought by
Petitioner**

There is some evidence of interchange between the employees the Employer would add and those in the petitioned for unit. There is no evidence that any employees from other sections have ever transferred into the petitioned-for unit. Although there is some evidence of temporary interchange, there is insufficient evidence to show that such interchange occurred with a significant degree of frequency or regularity. Specifically, there is evidence that there is some degree of cross-utilization, meaning performance of work in one section by employees from another section, between employees in other sections and the Engineering Technicians who serve as drivers and work in the salvage yard for Section 79-Ammunition Logistics.

The Employer presented evidence that over a one-year period, there was a total of 3,000 hours of cross-utilization into and out of the petitioned-for unit. The Employer did not provide a breakdown of how many of those 3,000 hours were worked by the 12 Engineering Technicians who are sometimes cross-utilized and how many of those hours were performed by employees from employees from other sections in Section 79. However, assuming that half of the 3,000 hours consisted of cross-utilization of employees in the petitioned-for unit in other sections, then the average weekly number of hours of cross-utilization for the 12 Engineering Technicians would have been about 2.4 hours per week (3,000 hours, divided by 2, divided by 12 Engineering Technicians, divided by 52 weeks).

Cross-utilization of employees into and out of the petitioned-for unit is primarily used to avoid overtime or to ensure that employees have work to perform when work in their sections is slow. For example, Transit Vehicle Operators and Field Technicians from other sections have performed work in Section 79-Ammunition Logistics on occasion when work in

their sections was slow. In addition, the Engineering Technicians who work as drivers have filled in occasionally in the Conditioning Chambers section within the Ammunition group. For example, once a quarter, they can assist with the Conditioning Chambers section with inspecting unfired ammunition to ensure it is not dangerous or in need of disposal. Further, each month, one of them is rotated to assist in the Conditioning Chambers section. During a one-year period, one of the Engineering Technicians who works as a driver earned approximately 49 hours of overtime (amounting to an average of 0.9 hours per week) for work performed for the Conditioning Chambers section.

Thus, although there is some evidence of interchange between the Engineering Technicians serving as drivers and in the salvage yard, I find that interchange to be so limited that it does not support a finding that the employees in the petitioned-for unit share an overwhelming community of interest with the Employer's other employees at Yuma Proving Ground.

**6. The Employees the Employer Would Add Have
Relatively Limited Contact with the Employees the
Employer Contends Must Be in the Unit**

The record establishes that there is some contact between employees in the petitioned-for unit and the employees the Employer would add but that such contact is largely sporadic and is generally limited to the Ammunition group.

For example, the Engineering Technicians who serve as drivers mostly deliver the ammunition to the various magazines and other weapons storage facilities. Less frequently, they transport ammunition to the range or other locations when there is a need for some assistance. For example, they sometimes deliver ammunition that needs to be filled with wax to achieve the appropriate weight to the wax plant. They also sometimes transport ammunition to the Metrology and Simulation section where they can assist by setting up cameras and equipment to record the impact of the ammunition's explosion on buildings and other items. However, the Employer did not establish that that such contact occurred with any significant degree of frequency or regularity.

The Engineering Technician who works in the salvage yard likewise has only limited contact with employees from outside Section 79-Ammunition Logistics. That employee has the most contact with the Engineering Technicians who serve as drivers, who deliver packaging materials to the salvage yard. Although there is evidence that the employee sometimes receives packaging materials from employees not belonging to Section 79, there is insufficient evidence to show that such deliveries by employees from outside the section occurred with a significant degree of frequency or regularity.

There is also insufficient evidence to show that the Engineering Technicians assigned to the AMD have a significant degree of contact with any employees other than the Engineering Technicians who serve as drivers. Those Engineering Technicians work in a building with federal government employees not employed by the Employer, and thus largely would have contact with the Engineering Technicians who serve as drivers and with federal

government employees. There is also insufficient evidence to establish that the Engineering Technician who prepares SOPs for the Ammunition group and other sections has regular contact with any employees, either within or outside Section 79.

Considering all of the evidence, I find that the Employer has not established that the petitioned-for employees have frequent and regular contact with the employees it would add, as compared to degree of contact the petitioned-for employees have with each other.

7. The Degree of Functional Integration Differs Significantly Between the Two Groups When Compared to the Functional Integration of the Unit of Employees Sought by Petitioner

Here, the petitioned-for employees are only functionally integrated with employees the Employer seeks to add insofar as they are responsible for delivering and tracking ammunition used in testing by employees in other sections, and, for one of the Engineering Technician, insofar as the employee is responsible for preparing SOPs for employees in other sections. Once ammunition is delivered and unloaded, the drivers generally do not continue interfacing with the receiving employees whether it is at a magazine, warehouse, or range. While employees in other sections or groups may depend on the delivery of the ammunition and the preparation of SOPs to conduct their operations, nearly every workplace, taken as a whole, cannot function without each of its parts. This is not the question asked in analyzing functional integration. Rather, the question is whether each classification has a separate role in the process. *DTG Operations*, supra at 8. Thus, I find that the degree of functional integration between the employees in the petitioned-for unit and the employees the Employer seeks to add is limited in comparison with the degree of functional integration among the employees in the petitioned-for unit, who, for the most part, play some role in the process of delivering and tracking ammunition.

8. Balancing of Community of Interest Factors

I acknowledge that the employees the Employer contends must be included in the unit and the employees in the petitioned-for unit share a limited degree of common supervision, share some common terms and conditions of employment, have some degree of contact with each other, and have some degree of functional integration. While the Employer's contentions may establish that the broader unit sought by the Employer is an appropriate unit, balancing all of the factors described above, they are insufficient to establish that the employees the Employer would add share such an overwhelming community of interest as to require their inclusion in the unit. Because the Union did not seek the inclusion of the Lead Engineering Technician, but the issue of whether that individual is appropriately excluded as a statutory supervisor or for any other reason was not litigated at the hearing, I have decided to permit the Lead Engineering Technician to vote subject to challenge.

V. Conclusions

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.³
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.⁴
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act in Case 28-RC-157129:

All full-time Electronic Technicians I/II/III, Secretaries, and Engineering Technicians I/II/III/IV/V/VI employed by the Employer in its Section 96-Telecommunications at Yuma Proving Ground, Yuma, Arizona; excluding all other employees, including office clerical employees, managers, guards, and supervisors, as defined in the National Labor Relations Act.⁵

For the reasons noted above, I shall permit the Lead Telecommunications Technician in Section 96-Telecommunications to vote subject to challenge.

There are approximately 7 employees in the unit found appropriate.

6. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act in Case 28-RC-157323:

All full-time Engineering Technicians I/II/III employed by the Employer in its Section 79-Ammunition Logistics at Yuma Proving Ground, Yuma, Arizona; excluding all other employees, including

³ I find, based on the stipulations of the parties and the record evidence, that the Employer is a New Mexico corporation with its principal office in Las Vegas, Nevada, and an office and place of business at Yuma Proving Ground, Arizona, where it is engaged in business of providing support services to the Department of Defense. During the 12-month period preceding July 15, 2015, the Employer provided services valued in excess of \$50,000 directly to the United States government, provided services valued in excess of \$50,000 in states other than the state of Arizona, and purchased and received at its Arizona facility goods and materials valued in excess of \$50,000 directly from suppliers outside the state of Arizona.

⁴ The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

⁵ The unit found appropriate conforms substantially with the unit sought by Petitioner.

office clerical employees, managers, guards, and supervisors, as defined in the National Labor Relations Act.⁶

For the reasons noted above, I shall permit the Lead Engineering Technician in Section 79-Ammunition Logistics to vote subject to challenge.

There are approximately 15 employees in the unit found appropriate.

DIRECTION OF ELECTIONS

I. Case 28-RC-157129: Section 96-Telecommunications

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above in Case 28-RC-157129. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Machinists Local 2282, International Association of Machinists and Aerospace Workers, AFL-CIO.

A. Election Details

The election will be held on, August 25, 2015, from 6:00 a.m. to 7:00 a.m., in the break room in Building S5 at Yuma Proving Ground, Yuma, Arizona.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **August 16, 2015**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classifications whose eligibility remains unresolved as specified above and in the Notice of Election.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

⁶ The unit found appropriate conforms substantially with the unit sought by Petitioner.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the Regional Director and the parties by **Thursday, August 20, 2015**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

II. Case 28-RC-157323: Section 79-Ammunition Logistics

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above in Case 28-RC-157323. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Machinists Local 2282, International Association of Machinists and Aerospace Workers, AFL-CIO.

A. Election Details

The election will be held on, August 25, 2015, from 6:30 a.m. to 7:30 a.m., in the break room in Building 3630 at Yuma Proving Ground, Yuma, Arizona.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **August 16, 2015**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classifications whose eligibility remains unresolved as specified above and in the Notice of Election.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Thursday, August 20, 2015**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notices of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor

Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Phoenix, Arizona, this 18th day of August, 2015.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

TRAX INTERNATIONAL CORPORATION

Employer

and

**MACHINISTS LOCAL 2282, INTERNATIONAL
ASSOCIATION OF MACHINISTS AND
AEROSPACE WORKERS, AFL-CIO**

Union

**Cases 28-RC-157129
28-RC-157323**

AFFIDAVIT OF SERVICE OF: DECISION AND DIRECTION OF ELECTION

I, the undersigned employee of the National Labor Relations Board, state under oath that on August 18, 2015, I served the above-entitled document by electronic mail upon the following persons, addressed to them at the following addresses:

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August 18, 2015

Date

Kay Davis, Designated Agent of NLRB

Name

/s/ Kay Davis

Signature